

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

J.S., (a minor child by and through his
father and next friend, John Seawright),

Plaintiff,

vs.

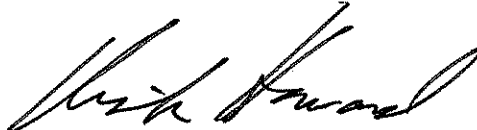
Officer Curt Campbell, in his individual
capacity,

Defendant.

Civil Case No. 02:05-cv-928-WKW

DEFENDANT'S SUPPLEMENT TO ITS PREVIOUSLY FILED MOTION IN LIMINE

COMES NOW Defendant, by and through counsel, and supplements its previously
filed motion in limine (Document 48) with the deposition of Curt Campbell. Defendant
failed to attach the deposition of Defendant to its previously filed motion in limine
(Document 48). The deposition of Curt Campbell is marked as Exhibit A and should be
attached to Defendant's previously filed motion in limine.



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served upon the following via United States Mail, postage prepaid, on this the 24th day of Oct, 2006.

Jay Lewis
Andy Nelms
847 S. McDonough Street
Montgomery, Alabama 36104



OF COUNSEL

DEPOSITION OF OFFICER CURT CAMPBELL

March 3, 2005

Pages 1 through 92

**CONDENSED TRANSCRIPT AND CONCORDANCE
PREPARED BY:**

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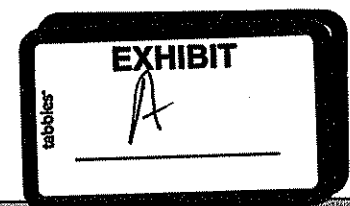
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Deposition of Officer Curt Campbell

March 3, 2006

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<p>1 IN THE UNITED STATES DISTRICT COURT</p> <p>2 FOR THE MIDDLE DISTRICT OF ALABAMA</p> <p>3 NORTHERN DIVISION</p> <p>4</p> <p>5 J.S., (a minor child by</p> <p>6 and through his father and</p> <p>7 next friend, JOHN SEAWRIGHT),</p> <p>8 Plaintiff,</p> <p>9 Vs. CIVIL ACTION NO.</p> <p>10 02:05-CV-928-WKW</p> <p>11 OFFICER CURT CAMPBELL, in</p> <p>12 his individual capacity,</p> <p>13 Defendant.</p> <p>14 *****</p> <p>15 DEPOSITION OF OFFICER CURT CAMPBELL, taken</p> <p>16 pursuant to stipulation and agreement before Pamela</p> <p>17 A. Wilbanks, Registered Professional Reporter and</p> <p>18 Commissioner for the State of Alabama at Large, in</p> <p>19 the Richardson Legal Center, 133 Hayneville Plaza,</p> <p>20 Hayneville, Alabama, on Friday, March 3, 2006,</p> <p>21 commencing at approximately 12:50 p.m.</p> <p>22 *****</p> <p>23</p>	<p>1 STIPULATION</p> <p>2 It is hereby stipulated and agreed by and</p> <p>3 between counsel representing the parties that the</p> <p>4 deposition of OFFICER CURT CAMPBELL is taken pursuant</p> <p>5 to the Federal Rules of Civil Procedure and that said</p> <p>6 deposition may be taken before Pamela A. Wilbanks,</p> <p>7 Registered Professional Reporter and Commissioner for</p> <p>8 the State of Alabama at Large, without the formality</p> <p>9 of a commission, that objections to questions other</p> <p>10 than objections as to the form of the question need</p> <p>11 not be made at this time but may be reserved for a</p> <p>12 ruling at such time as the said deposition may be</p> <p>13 offered in evidence or used for any other purpose by</p> <p>14 either party provided for by the Statute.</p> <p>15 It is further stipulated and agreed by and</p> <p>16 between counsel representing the parties in this case</p> <p>17 that the filing of said deposition is hereby waived</p> <p>18 and may be introduced at the trial of this case or</p> <p>19 used in any other manner by either party hereto</p> <p>20 provided for by the Statute regardless of the waiving</p> <p>21 of the filing of the same.</p> <p>22 It is further stipulated and agreed by and</p> <p>23 between the parties hereto and the witness that the</p>
Page 2	Page 4
<p>1 APPEARANCES</p> <p>2 FOR THE PLAINTIFF:</p> <p>3 Mr. Jay Lewis</p> <p>4 LAW OFFICES OF JAY LEWIS & ASSOCIATES</p> <p>5 Attorneys at Law</p> <p>6 847 South McDonough Street</p> <p>7 Suite 100</p> <p>8 Montgomery, Alabama</p> <p>9 FOR THE DEFENDANT:</p> <p>10 Mr. S. Mark Dukes</p> <p>11 NIX, HOLTSFORD, GILLILAND, HIGGINS & HITSON</p> <p>12 Attorneys at Law</p> <p>13 4001 Carmichael Road - Suite 300</p> <p>14 Montgomery, Alabama 36106</p> <p>15 ALSO PRESENT:</p> <p>16 Mr. and Mrs. Searight</p> <p>17 John Searight, Jr.</p> <p>18 *****</p> <p>19 EXAMINATION INDEX</p> <p>20 BY MR. LEWIS 4</p> <p>21 BY MR. DUKES 88</p> <p>22 BY MR. LEWIS 89</p> <p>23 *****</p> <p>24 PLAINTIFF'S EXHIBIT INDEX</p> <p>25 1 Incident/Offense Report 24</p> <p>26 2 Diagram of site of occurrence 31</p> <p>27</p>	<p>1 signature of the witness to this deposition is hereby</p> <p>2 not waived.</p> <p>3 *****</p> <p>4 OFFICER CURT CAMPBELL</p> <p>5 The witness, after having first been duly</p> <p>6 sworn to speak the truth, the whole truth and nothing</p> <p>7 but the truth testified as follows:</p> <p>8 EXAMINATION</p> <p>9 BY MR. LEWIS:</p> <p>10 Q. State your name, please.</p> <p>11 A. T. C. Campbell.</p> <p>12 Q. Officer Campbell, my name is Jay Lewis. We've</p> <p>13 met before in court. I'm here to take your</p> <p>14 deposition in the case about which we're here,</p> <p>15 and that is, of course, Searight versus</p> <p>16 Campbell.</p> <p>17 Have you ever had your deposition taken</p> <p>18 before?</p> <p>19 A. Yes.</p> <p>20 Q. In what case or cases?</p> <p>21 A. Vehicle accident where an individual died.</p> <p>22 Q. Were you involved as a party in that case?</p> <p>23</p>

1 (Pages 1 to 4)

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1 A. No. I was -- I came out and photographed the
2 scene.

3 Q. You were a police officer at the time?

4 A. Correct.

5 Q. Kind of the same stuff that Mark was talking
6 about in the previous deposition. I don't
7 really have any worries about this, but if
8 you'll speak up and make all of your answers
9 verbal rather than nodding or shaking your
10 head or saying uh-huh or huh-uh, we'll get
11 along a lot better.

12 If you will stop me if I ask a question
13 that you don't understand or use a word that
14 you don't understand or in a context with
15 which you're unfamiliar, I will try to make it
16 right. Anytime you want to take a break,
17 we'll take a break. Anytime you want to talk
18 to your lawyer, as long as there's not a
19 question on the table at that time, talk to
20 your lawyer. If I'm asking you a about
21 something that I inadvertently ask you that
22 involves attorney-client privilege and it's
23 not immediately obvious from the way I'm

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1 asking it and you want to talk about whether
2 or not that is privileged, just stop me right
3 there, talk to your lawyer, and we'll stop and
4 let you confer on that.

5 I ask the same question of everybody. Are
6 you under the influence of alcohol or other
7 substances, including prescription
8 medications, that might affect your ability to
9 understand the questions I'm asking and give
10 an accurate, truthful response?

11 A. No, I'm not.

12 Q. Have you ever been arrested?

13 A. No, I haven't.

14 Q. Ever been charged with a crime, whether or not
15 the charge ended up in an arrest?

16 A. Yes, I have.

17 Q. And what were you charged with?

18 A. Reckless endangerment.

19 Q. When was that?

20 A. August 2, 2002.

21 Q. Tell me the circumstances of that, please.

22 A. I was at the restaurant in Fort Deposit out
23 near -- between the Shell station and the BP

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1 station, and we were horseplaying. And I
2 pulled my gun out in a joking manner, and the
3 owner of the restaurant saw fit to charge me
4 with reckless endangerment.

5 Q. With whom were you horseplaying?

6 A. Jamie Betts and Lenay (phonetic) from
7 Emergystat.

8 Q. Both of those were from Emergystat Ambulance
9 Service?

10 A. That's correct.

11 Q. What was the disposition of that charge?

12 A. It was dismissed.

13 Q. At the time you went to court?

14 A. Yes.

15 Q. Any other charges or arrests?

16 A. No, sir.

17 Q. At that time on August 2, 2002, were you a
18 police officer in the employ of the City of
19 Fort Deposit?

20 A. Yes, I was.

21 Q. Let's go back and get a little background, if
22 I may.

23 What's your address?

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1 A. 741 Edgewood Drive.

2 Q. And that is in Fort Deposit?

3 A. Yes, sir, it is.

4 Q. What's your social security number?

5 A. 421-08-5011.

6 Q. Date of birth?

7 A. June 7 of 1966.

8 Q. How long have you lived in Fort Deposit?

9 A. Two years, nine months.

10 Q. Have you ever served in the military?

11 A. No, sir, I haven't.

12 Q. Let's start back, if you will. Where did you
13 go to high school?

14 A. Greenville High School in Greenville, Alabama.

15 Q. Do you consider yourself to be from
16 Greenville?

17 A. Yes.

18 Q. Were you born there?

19 A. No, sir.

20 Q. Where were you born?

21 A. Detroit, Michigan.

22 Q. When did you move to Greenville?

23 A. 1968, I think.

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1 Q. About two years old?
 2 A. Correct.
 3 Q. And you've been in Alabama since then?
 4 A. That's correct.
 5 Q. What year did you graduate from Greenville
 6 High School?
 7 A. 1984.
 8 Q. I don't want to know the part-time jobs you
 9 had while you were in high school or
 10 delivering newspapers or anything like that,
 11 but I'd like to start with 1984 when you
 12 graduated from high school, and let's take
 13 your employment history forward from there.
 14 Okay?
 15 Where did you first work after you
 16 graduated from high school?
 17 A. I worked for the Greenville Parks and
 18 Recreation, 1986.
 19 Q. That's from what date to what date roughly?
 20 A. From 1986 to 1992 off and on, I mean, during
 21 the summers and whatnot. I was a lifeguard.
 22 Q. Were you going to college during that time?
 23 A. Yes. I went to college from '84 through '86.

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1 Q. Where did you go to college?
 2 A. Alabama A & M University.
 3 Q. Did you graduate?
 4 A. No, I didn't.
 5 Q. What were you majoring in?
 6 A. Computer science.
 7 Q. You went to college from '84 through '86, and
 8 you started working with the Greenville Parks
 9 and Recreation Department in '86 through '92.
 10 And I assume that was seasonal work?
 11 A. Yes, sir.
 12 Q. And where else did you work between 1986 and
 13 1992?
 14 A. Self-employed as a barber.
 15 Q. Did you have your own shop?
 16 A. Yes.
 17 Q. Where was your shop?
 18 A. At my home.
 19 Q. Were you State licensed?
 20 A. No, I wasn't.
 21 Q. Are you aware of whether or not it's unlawful
 22 to hold yourself out as a barber without State
 23 certification and licensing?

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1 A. No. I wasn't at the time.
 2 Q. It was not unlawful at the time?
 3 A. I wasn't aware.
 4 Q. Okay. That's fine.
 5 Starting in 1992 what did you do?
 6 A. I worked for the Montgomery Advertiser --
 7 Q. Doing what?
 8 A. -- to my knowledge.
 9 I was a stocker there.
 10 Q. In Montgomery?
 11 A. Yes.
 12 Q. What did you stock, like paper goods and --
 13 A. Yes, sir.
 14 Q. That was in 1992. How long did you work
 15 there?
 16 A. About four months.
 17 Q. Where did you go from there?
 18 A. Kirby. I worked for --
 19 Q. Sold Kirby vacuum cleaners?
 20 A. Yes, sir. I worked there for a few months.
 21 Q. And how about after that?
 22 A. My next employment was maybe 1994 or '5. I'm
 23 not totally sure. I don't distinctly remember

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1 back that far as far as what I did.
 2 Q. So what did you do after selling Kirby vacuum
 3 cleaners?
 4 A. I began to work for Allied Signal in
 5 Greenville, safety restraint systems.
 6 Q. Production work?
 7 A. Yes, sir. Inspecting.
 8 Q. And they make seat belts, right?
 9 A. That's what they make.
 10 Q. How about after that?
 11 A. We were laid off in '97 or '98, and I started
 12 work with the Fort Deposit Police Department.
 13 Q. So '97 or '98 you would have been with the
 14 Fort Deposit Police Department?
 15 A. Yes, sir.
 16 Q. Tell me how that works. What I'm asking is
 17 not what you did as a police officer, but when
 18 you decide to go to work for the Fort Deposit
 19 Police Department, do they hire you and then
 20 send you to the police academy?
 21 A. Yes, they do.
 22 Q. And once you finish the police academy, then
 23 you're certified as a police officer by the

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1 Peace Officers Standards and Training
 2 Commission?
 3 A. That's correct.
 4 Q. And you went through all that certification
 5 process?
 6 A. That's correct.
 7 Q. During that certification process and training
 8 process, where did you go to the police
 9 academy?
 10 A. In Ozark.
 11 Q. And that's the Southeast Alabama Law
 12 Enforcement Training Academy?
 13 A. It's actually Southwest Alabama Police
 14 Academy, but they had a class that they would
 15 bring over to the southeast for a period of
 16 time.
 17 Q. During that training process, did you have
 18 courses in arrest procedures?
 19 A. Yes.
 20 Q. Did you have courses in sufficient law to
 21 allow you to determine things like reasonable
 22 suspicion and probable cause?
 23 A. Yes.

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1 Q. Had some training in constitutional law,
 2 Fourth Amendment, that sort thing?
 3 A. Yes.
 4 Q. And you made good grades in that?
 5 A. Yes, sir. I made fairly good grades.
 6 Q. And you feel like you understand that
 7 reasonably well?
 8 A. Yes.
 9 Q. Sufficiently to do a job as a police officer?
 10 A. Yes.
 11 Q. Have you been with the police department in
 12 Fort Deposit ever since '97 or '98?
 13 A. Yes, sir.
 14 Q. Had any other jobs? Part-time jobs, anything
 15 like that? Security jobs?
 16 A. On an occasion during the summertime, we do
 17 security out at Carnes on U.S. 80.
 18 Q. What is Carnes?
 19 A. It's a maybe 30-acre stretch of land where
 20 they hold concerts.
 21 Q. And so you provide security for events and
 22 things?
 23 A. That's correct.

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1 Q. With regard to the period of time that you've
 2 been with the Fort Deposit Police Department,
 3 have you ever been the subject of an ABI
 4 investigation?
 5 A. Yes, I have.
 6 Q. Tell me about that.
 7 A. I was responding to a call for help from one
 8 of my coworkers who was Officer Ashford Packer
 9 at the time, at which time when I arrived to
 10 Mr. Packer's aid, he explained to me what
 11 happened as far as another juvenile entering
 12 his vehicle and taking a gun without his
 13 permission. And he gave me the name of that
 14 individual.
 15 Q. Mr. Packer was a police officer?
 16 A. That's correct.
 17 Q. Tell me what happened next.
 18 A. At which time I went out and attempted to
 19 locate that individual. And after several
 20 trips by that individual's house, I noticed
 21 that he wouldn't -- that he wasn't there. I
 22 returned to Randy's Wrecker Service and asked
 23 Randy Adams could I borrow a vehicle that

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1 nobody would notice me in in an attempt to
 2 locate that individual who had taken the gun
 3 from -- out of Officer Packer's car, at which
 4 point in time he gave me a truck, a GMC SUV,
 5 gray in color, and I proceeded to Edgewood
 6 Manor Apartments where the individual lived.
 7 And I noticed that the window of that
 8 individual's residence was up, and the
 9 previous times it wasn't.
 10 I exited my vehicle and walked up to that
 11 house where a female by the name of Mrs. Joyce
 12 Andrews exited the house in a wheelchair. And
 13 she stated that her son was not at home. Her
 14 door was wide open. And in an effort for
 15 safety, I noticed that I was exposed. I was
 16 just standing out in the open, and I
 17 immediately ran to the side of her house and I
 18 drew my weapon. At that point -- Shortly
 19 after that, Mrs. Andrews alleged that I pulled
 20 a gun on her and henceforth the ABI
 21 investigation.
 22 Q. What did the ABI investigation conclude?
 23 A. To my knowledge that there was no wrongdoing

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1 on my part.
 2 Q. When did that event that gave rise to the
 3 investigation take place?
 4 A. Maybe April or May of 2004.
 5 Q. Any other incidents that gave rise to an ABI
 6 investigation?
 7 A. Of me directly or --
 8 Q. Yes.
 9 A. Not to my knowledge.
 10 Q. How about Internal Affairs investigations at
 11 the Fort Deposit Police Department? Have you
 12 ever been the subject of an investigation
 13 other than what you just told me about with
 14 regard to the April or May of '04 incident?
 15 A. Yes.
 16 Q. Tell me about each one of those.
 17 A. There was an allegation on April 15 of 2000
 18 that I knowingly or willingly allowed an
 19 individual to use my gun in the commission of
 20 a crime.
 21 Q. In brief terms, just describe what happened
 22 there.
 23 A. I allowed my cousin to use my truck to have a

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1 way to the nightclub, at which time I had a
 2 firearm in the rear of my truck inside of a
 3 bag. He goes to the nightclub, works as
 4 security personnel, and he goes to Subway
 5 where several individuals were attempting to
 6 attack him. And out of his pocket comes my
 7 firearm -- comes a firearm, to which I took
 8 the firearm from that individual and
 9 instructed him to go to the police station and
 10 I'll deal with him later.
 11 Q. And you were there with him at the Subway?
 12 A. I was called to the Subway for crowd control
 13 at 2 a.m.
 14 Q. So you took the weapon away from your cousin
 15 and told him to go to the police station and
 16 you would deal --
 17 A. Disarmed the weapon -- Took it from him,
 18 disarmed it, and I sent him to the police
 19 station because the other four individuals
 20 were attempting to attack him and/or me. So
 21 in an effort for safety, I sent him to the
 22 station and I tried to deal with the other
 23 four.

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1 Q. What was the finding of that IA investigation?
 2 A. There was no wrongdoing on my part.
 3 Q. Any other Internal Affairs investigations?
 4 A. To my knowledge, no.
 5 Q. Have you ever been written up or reprimanded,
 6 disciplined, punished, suspended or in any
 7 other way subjected to discipline at the Fort
 8 Deposit Police Department?
 9 A. I was suspended.
 10 Q. What were you suspended for?
 11 A. I was suspended for the incident at the
 12 restaurant.
 13 Q. Oh, for --
 14 A. The reckless endangerment.
 15 Q. How long were you suspended?
 16 A. I was suspended for a total of 17 days, eight
 17 days the first time and nine days the second
 18 time.
 19 Q. Explain to me why there were two separate
 20 suspensions.
 21 A. After it was discovered that another officer
 22 did the same exact thing. Then in an effort
 23 to be justified, they suspended us both with

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1 pay for nine days.
 2 Q. With pay?
 3 A. Correct.
 4 Q. What's your current rank with the Fort Deposit
 5 Police Department?
 6 A. Now I'm just a patrol officer.
 7 Q. Have you ever held a higher rank than that?
 8 A. Yes.
 9 Q. What higher rank did you have?
 10 A. I was our investigator.
 11 Q. And tell me why you're now a patrol officer
 12 and were an investigator?
 13 A. We have a new chief, and he saw fit to put me
 14 back into patrol.
 15 Q. Was that a demotion?
 16 A. Yes.
 17 Q. Did you lose money as a result of that?
 18 A. No, I didn't.
 19 Q. Who is your police chief now?
 20 A. Chief Benjamin Turner.
 21 Q. Do you and Chief Turner get along okay?
 22 A. Pretty much so.
 23 Q. Who was the former chief?

5 (Pages 17 to 20)

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1 A. Chief James Gulley.
 2 Q. You and Chief Gulley got along very well,
 3 didn't you?
 4 A. Yes, we did.
 5 Q. He's always given you high performance ratings
 6 and that sort thing?
 7 A. He gave me pretty favorable ratings to my
 8 knowledge.
 9 Q. Has Chief Turner had an opportunity to
 10 appraise your performance or have you received
 11 any since he's been there?
 12 A. To my knowledge, he hasn't.
 13 Q. I have received -- I just want to go over a
 14 couple of things here. I've received this
 15 Town of Fort Deposit municipal insurance
 16 corporation policy. As far as you know, are
 17 you covered for liability by this policy?
 18 A. I should be.
 19 Q. What I'm asking is, as far as you know, either
 20 the City of Fort Deposit or its insurer is
 21 providing you defense in this case?
 22 A. Yes.
 23 Q. I want you to take a look at a set of

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1 documents, and I'll represent to you that they
 2 were provided to us by your lawyer. And they
 3 are marked at the bottom Campbell, and it
 4 starts with 00004 and it runs to 00074. I'm
 5 not going to make them an exhibit to this
 6 because it would cost us a fortune to do
 7 that. But I want you to take a look at that
 8 and tell me whether or not that appears to be
 9 your personnel file.
 10 A. Yes, sir, it is.
 11 Q. As far as you know, is this a complete copy of
 12 your personnel file? I know that may be
 13 unfair because you haven't had an opportunity
 14 to read all the way through it, but does this
 15 look like your complete personnel file that's
 16 got your handgun training reports and some
 17 letters of commendation and requests for leave
 18 and certifications and that -- Does that seem
 19 to be your complete report?
 20 A. As best I know, that's my personnel file.
 21 Q. Okay. That's all we're going to do with that.
 22 Now, we're here about an incident that
 23 took place, I think the complaint says, June

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1 15 of 2005 -- but it may well have been May 15
 2 of 2005 -- involving Mr. John Searight, Jr.
 3 and yourself. And I want to go ahead, if we
 4 can, by stipulation --
 5 MR. LEWIS: I don't have a copy of
 6 this, Mark. This is the arrest
 7 report that you provided us,
 8 Campbell Documents 00001 through
 9 00002, and I'd like to make those
 10 an exhibit once we get a copy
 11 made of it. Okay?
 12 MR. DUKES: That's fine, but I
 13 believe that's an incident/
 14 offense report and not an arrest
 15 report.
 16 MR. LEWIS: You're right.
 17 Q. It's an incident/offense report, and I think
 18 the incident/offense report is normally one
 19 sheet with documentation on both sides; is
 20 that right?
 21 A. That's correct.
 22 Q. And what I have here is basically a photo copy
 23 that's on two sheets, right?

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1 A. That's correct.
 2 Q. Take a look at that, if you will -- and we'll
 3 incorporate that as an exhibit by reference
 4 and add it in later -- and tell me if that's
 5 the incident/offense report, commonly called
 6 an IO report, that relates to the incident
 7 made the subject of this lawsuit.
 8 A. Yes, sir, it is.
 9 (Plaintiff's Exhibit 1 marked for
 10 identification.)
 11 Q. Is this the only documentation that was ever
 12 prepared or has ever been maintained regarding
 13 the incident made the subject of this case?
 14 The reason I'm asking that is a lot of times
 15 when there's an -- well, all the time when
 16 there's an actual arrest, there's also an
 17 affidavit and warrant and complaint and arrest
 18 report, right, that would go along with this?
 19 A. There may be a statement that I had to write
 20 in regards to the incident.
 21 Q. Do you know whether or not we've been provided
 22 any statement with regard to the incident? I
 23 don't remember if the thing is in the file.

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<p>1 (Brief off-the-record discussion.)</p> <p>2 MR. DUKES: If there's one to be</p> <p>3 found, I'll get it to you.</p> <p>4 THE WITNESS: It may be inside the</p> <p>5 personnel --</p> <p>6 MR. LEWIS: Based on that</p> <p>7 representation, we'll go ahead</p> <p>8 with what's in the IO report.</p> <p>9 Q. I'm going to ask you to read what's on the</p> <p>10 second page to yourself, and then I'm going to</p> <p>11 ask you some questions about that, if you</p> <p>12 will.</p> <p>13 A. (Witness complies.)</p> <p>14 Q. As a preliminary matter, did you sign the</p> <p>15 bottom of that? Is that your signature?</p> <p>16 A. Yes, sir.</p> <p>17 Q. And is that your handwriting throughout?</p> <p>18 A. That's my --</p> <p>19 Q. You didn't dictate that to individuals?</p> <p>20 A. No, sir, I did not.</p> <p>21 Q. This particular document has what's called a</p> <p>22 narrative section which you say you wrote.</p> <p>23 And what I was going to ask you about with</p>	<p>1 2005, and he indicated that I believe he stuck</p> <p>2 up a bird or shot the bird or gave the finger</p> <p>3 to his aunt across the street from where he</p> <p>4 was standing and that you observed that,</p> <p>5 turned around, came back, and that's when the</p> <p>6 encounter occurred. Do you remember that</p> <p>7 testimony?</p> <p>8 A. Yes, sir, I do.</p> <p>9 Q. Now, in your words, what happened that evening</p> <p>10 on North Pollard Street starting around 7:50</p> <p>11 in the evening?</p> <p>12 A. The incident itself took place at around 7:20,</p> <p>13 7:25 -- somewhere between 7:20 and 7:30 that</p> <p>14 evening.</p> <p>15 Q. Let me stop you there and ask you whether or</p> <p>16 not the City of Fort Deposit maintains logs of</p> <p>17 radio transmissions.</p> <p>18 A. No, we don't.</p> <p>19 Q. Do you maintain tapes of radio transmissions?</p> <p>20 A. The City of Fort Deposit doesn't.</p> <p>21 Q. Now, I thought that was true. Does the City</p> <p>22 of Fort Deposit share a common communications</p> <p>23 facility with any other enforcement agency?</p>
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<p>1 regard to any other statements you might have</p> <p>2 written, would this narrative have contained</p> <p>3 all of the information you would have put in</p> <p>4 any other statement that you might have</p> <p>5 written or do you know?</p> <p>6 A. Could you repeat that question, sir?</p> <p>7 Q. Yes. Is there anything in any other statement</p> <p>8 that you've written that would be more than or</p> <p>9 expand on what you have in this narrative?</p> <p>10 A. Yes, sir.</p> <p>11 Q. In what respects would that be true?</p> <p>12 A. The statement would be a detailed statement of</p> <p>13 everything that occurred.</p> <p>14 Q. And the narrative would in essence be kind of</p> <p>15 a short-hand rendition suitable, say, to</p> <p>16 provide the elements for probable cause or</p> <p>17 reasonable suspicion, right?</p> <p>18 A. Yes, sir.</p> <p>19 Q. Is that the purpose of that? That's the</p> <p>20 purpose of that?</p> <p>21 A. Yes, sir.</p> <p>22 Q. Now, you heard Young Master Searight talk</p> <p>23 about what happened that afternoon of May 15,</p>	<p>1 A. Yes.</p> <p>2 Q. What is that agency or what are those</p> <p>3 agencies?</p> <p>4 A. That would be the Lowndes County E-911 board.</p> <p>5 Q. Do any other law enforcement agencies share in</p> <p>6 that common communication center?</p> <p>7 A. Yes, sir.</p> <p>8 Q. And which other ones do?</p> <p>9 A. Hayneville Police Department, Mosses Police</p> <p>10 Department, White Hall Police Department,</p> <p>11 Lowndes County Sheriff's Department.</p> <p>12 Q. So pretty much every law enforcement agency in</p> <p>13 Lowndes County participates in the Lowndes</p> <p>14 County E-911 board?</p> <p>15 A. Yes, sir.</p> <p>16 Q. To the best of your knowledge, does the</p> <p>17 Lowndes County E-911 board maintain radio logs</p> <p>18 of transmissions?</p> <p>19 A. Yes, sir.</p> <p>20 Q. Does it maintain audiotapes of radio</p> <p>21 transmissions?</p> <p>22 A. I'm not aware that they do.</p> <p>23 Q. With regard to your estimate that the incident</p>

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1 started between 7:20 and 7:30, to what are you
 2 referring to to be able to say that it was
 3 7:20 to 7:30? Is it strictly from your
 4 narrative or do you have some independent
 5 recollection?
 6 A. My independent recollection as well as it's a
 7 time of occurrence on the front side of the
 8 report.
 9 Q. And when we're talking about time of
 10 occurrence, you're looking at this section
 11 which is in the event section that says time,
 12 7:25 and time, 7:30, correct?
 13 A. That's correct.
 14 Q. So it started sometime between 7:20 and 7:30.
 15 Tell me what happened.
 16 A. While on patrol I traveled north on Pollard
 17 Street, and I noticed an individual standing
 18 near a table or around a table, and I noticed
 19 him making an obscene gesture.
 20 Q. I'm going to ask you to do something that
 21 Mr. Searight declined to do earlier protesting
 22 lack of talent in that regard. I want you to
 23 draw me a picture of the scene, if you will,

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1 as you were patrolling on North Pollard, what
 2 you saw, where everything was in relationship
 3 to the road. And if you could, kind of label
 4 it so we can know what we're talking about.
 5 A. (Witness complies.)
 6 Q. Well, it's not the Sistine Chapel, but it's
 7 not bad.
 8 North Pollard Street -- Would you indicate
 9 which way is north?
 10 A. (Witness complies.)
 11 Q. You've got a couple of blocks there. One is
 12 marked Masonic Lodge, and that would be on the
 13 east side of North Pollard Street?
 14 A. That's correct.
 15 Q. And then you come to a street that intersects
 16 diagonally that you've labeled as Walker Mason
 17 Street, correct?
 18 A. That's correct.
 19 Q. These other two rectangular indications, would
 20 those be mobile homes?
 21 A. That's correct.
 22 Q. You've got a circle out almost intersecting
 23 Walker and Mason Street. Is that where the

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1 table is?
 2 A. That's correct.
 3 Q. How about putting a little mark there. Mark
 4 it "T" for table inside. That's fine.
 5 A. (Witness complies.)
 6 Q. Were you aware at the time of the ownership of
 7 these two mobile homes that you've marked?
 8 A. No.
 9 Q. You've indicated --
 10 MR. LEWIS: Let's just mark this as
 11 Plaintiff's Exhibit 2.
 12 (Plaintiff's Exhibit 2 marked for
 13 identification.)
 14 Q. What you've marked with a "T" inside a circle
 15 is the table to which you referred earlier
 16 when you said an individual standing near a
 17 table?
 18 A. That's correct.
 19 Q. How far is that table from Walker Mason
 20 Street, the roadway itself?
 21 A. Maybe 5, 10 feet at tops.
 22 Q. So it's very near the road?
 23 A. That's correct.

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1 Q. Is North Pollard a paved road?
 2 A. Yes, it is.
 3 Q. How about Walker Mason Street?
 4 A. No, it's not.
 5 Q. That's a gravel road or dirt or --
 6 A. Dirt, yes, sir.
 7 Q. So you were proceeding north on North Pollard
 8 Street?
 9 A. Yes.
 10 Q. And how far would this table be from North
 11 Pollard Street? Do you have any idea?
 12 A. Maybe 20, 30 yards at best.
 13 Q. Twenty or thirty yards. So we're talking
 14 about 60 to 90 feet?
 15 A. Yes.
 16 Q. Where were you -- Where was your car, if
 17 you'll indicate that, on North Pollard Street
 18 when you noticed the individual standing next
 19 to the table?
 20 A. Maybe somewhere around this area right here at
 21 the intersection there.
 22 Q. How about marking that with an X inside so
 23 we'll know where you were when you first saw

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<p>1 the individual.</p> <p>2 A. (Witness complies.)</p> <p>3 Q. So, you are -- when you see the individual</p> <p>4 exhibiting what you called an obscene gesture,</p> <p>5 you were at least 60 to 90 feet away from</p> <p>6 them?</p> <p>7 A. Yes, sir.</p> <p>8 Q. And which direction was he facing when he was</p> <p>9 exhibiting the obscene gesture?</p> <p>10 A. He was facing west, facing me.</p> <p>11 Q. Facing you. He was not facing across Walker</p> <p>12 Mason Street?</p> <p>13 A. He was facing directly at Pollard Street.</p> <p>14 Q. Could you tell from 60 to 90 feet away whether</p> <p>15 or not he was directing that gesture toward</p> <p>16 you?</p> <p>17 A. No, I couldn't.</p> <p>18 Q. All you knew at that time was he was making an</p> <p>19 obscene gesture?</p> <p>20 A. Yes.</p> <p>21 Q. And you're absolutely sure it was the middle</p> <p>22 finger and not any other finger that was up</p> <p>23 raised?</p>	<p>1 Walker Mason Road where the individuals were</p> <p>2 playing cards and where I noticed the</p> <p>3 individual making the obscene gesture.</p> <p>4 Q. Stop right there, if you will.</p> <p>5 At the time you were in the location</p> <p>6 marked by an X in the box, you noticed the</p> <p>7 individual making the obscene gesture. What</p> <p>8 else, if anything, did you notice going on</p> <p>9 around that table?</p> <p>10 A. Noticed individuals playing cards.</p> <p>11 Q. Males? Females? What?</p> <p>12 A. One male -- One adult male, two adult females</p> <p>13 and two juvenile females.</p> <p>14 Q. All at the card table?</p> <p>15 A. That's correct.</p> <p>16 Q. And you observed that at the time you passed</p> <p>17 Walker Mason Road heading north?</p> <p>18 A. That's correct.</p> <p>19 Q. Now, you turned around and went back and got</p> <p>20 back to Walker Mason Road. What did you do</p> <p>21 then?</p> <p>22 A. I turned in on Walker Mason Road, and I</p> <p>23 proceeded to where the individuals were</p>
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<p>1 A. It was both hands.</p> <p>2 Q. He was using both hands?</p> <p>3 A. Yes.</p> <p>4 Q. One finger on each hand?</p> <p>5 A. Yes.</p> <p>6 Q. What action did you take upon observing this</p> <p>7 individual giving you not one but two birds?</p> <p>8 A. I immediately proceeded down north --</p> <p>9 traveling north on North Pollard. I came to</p> <p>10 Lawhorn Street, which is not very far down,</p> <p>11 maybe a hundred yards.</p> <p>12 Q. How about marking Lawhorn Street, if you</p> <p>13 would.</p> <p>14 A. (Witness complies.)</p> <p>15 Q. So you got down to Lawhorn Street. What did</p> <p>16 you do when you got there?</p> <p>17 A. I turned around.</p> <p>18 Q. And proceeded south on North Pollard?</p> <p>19 A. That's correct.</p> <p>20 Q. Tell me what happened from that.</p> <p>21 A. After I turned around on North Pollard</p> <p>22 Street -- I mean, I turned around on Lawhorn</p> <p>23 Street and headed south. I went back to</p>	<p>1 playing cards. And I noticed the individual</p> <p>2 making the obscene gesture.</p> <p>3 Q. Would you mark where you parked your car on or</p> <p>4 near Walker Mason Road and mark that maybe</p> <p>5 with a 2 in the middle of it or something,</p> <p>6 something to distinguish it?</p> <p>7 A. (Witness complies.)</p> <p>8 Q. So you pulled a little past the place where</p> <p>9 the people were playing cards?</p> <p>10 A. Yes, sir.</p> <p>11 Q. What did you do at that point? First of all,</p> <p>12 what did you see at that point, at the time</p> <p>13 you turned around and came back and parked on</p> <p>14 Walker Mason Road?</p> <p>15 A. Noticed the same individuals seated at the</p> <p>16 table, and Mr. John Searight, Jr. standing up</p> <p>17 at the table.</p> <p>18 Q. Was everybody else seated?</p> <p>19 A. Yes.</p> <p>20 Q. How long do you think it took you to get to</p> <p>21 Lawhorn Street, turn around and come back and</p> <p>22 park on Walker Mason Road?</p> <p>23 A. One to two minutes.</p>

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1 Q. When you came back and you parked, did you
2 park in the roadway or did you park -- pull
3 off to the side? What did you do?
4 A. I parked on the roadway.
5 Q. You're parked on the roadway now. The
6 individuals are still around the card table,
7 and Mr. Searight is standing up near there.
8 A. Yes.
9 Q. What did you do then?
10 A. I exited the vehicle and I approached the
11 table, and I spoke to everyone that was there.
12 Q. What did you say to everyone who was there?
13 A. I said hi, how are y'all doing.
14 Q. Was anybody breaking any laws as far as you
15 knew at that time, excluding Mr. Searight?
16 A. Not that I could see.
17 Q. All sorts of things might have been going on,
18 but you didn't see anything?
19 A. That's correct.
20 Q. So did they greet you? Did they say hi,
21 Officer Campbell, or hey, Curt or anything
22 like that?
23 A. Yes.

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1 Q. Did you know any of those individuals at the
2 table?
3 A. Knew every one of them.
4 Q. Did any one of them speak to you?
5 A. Yes.
6 Q. Tell me who talked to you.
7 A. Ms. Laura Walker, Mr. Travis Searight and
8 the -- and Melissa Walker as well as the two
9 juveniles.
10 Q. Were they cordial to you?
11 A. Yes.
12 Q. So everybody else other than Mr. -- We're not
13 talking about Mr. Searight yet. Everybody
14 else you got along with and you exchanged
15 greetings and nothing out of the ordinary
16 happened there?
17 A. That's correct.
18 Q. What did you do then?
19 A. I then focused my attention to Mr. Searight.
20 Q. Was Mr. Searight still engaged in the
21 gesticulation that you observed earlier?
22 A. He was just standing up there.
23 Q. Wasn't doing anything at that time?

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1 A. No, sir.
2 Q. You turned your attention to him. He was just
3 standing there. What did you do?
4 A. I asked Mr. Searight why did he do what he
5 did.
6 Q. What did he respond?
7 A. He said, I wasn't doing nothing. He said, I
8 just did this right here, holding up his right
9 index finger. And then I explained to him
10 that that's not what I noticed and that was
11 very disrespectful.
12 Q. And what did he respond?
13 A. He said, so; I don't care; you ain't my damn
14 daddy.
15 Q. Was that as far as you know a true statement?
16 A. Yes.
17 Q. What happened next?
18 A. At that point I instructed him to not use that
19 language anymore, and he then replied, fuck
20 you; you ain't my daddy. Mr. Travis Searight
21 said, Candy Man, you just a bad ass; if you
22 was my child, I would beat you. I instructed
23 Mr. Searight or Mr. Crenshaw to come on and I

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1 was going to take him to his parents.
2 Q. And everybody in this whole neighborhood is
3 named Searight, so I want to make sure that
4 we're talking about the John Searight, Jr. who
5 is sitting here and is the plaintiff in this
6 case.
7 A. Yes.
8 Q. That's the one you were talking to as opposed
9 to Travis Searight?
10 A. Yes.
11 Q. You told him -- Tell me again what you told
12 him.
13 A. I explained to him that it was very
14 disrespectful for him to shoot the bird at
15 anybody, and that if it were some other adult,
16 they make take it the wrong way and try to
17 hurt him.
18 Q. But you said something about taking him to his
19 parents?
20 A. Yes. I instructed Candy Man --
21 Q. Yeah. We'll call him Candy Man. That's
22 fine.
23 A. I instructed Candy Man to come on, I was going

10 (Pages 37 to 40)

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1 to take him to his parents.
 2 Q. Did he come with you?
 3 A. No, he didn't.
 4 Q. What did he do?
 5 A. He said, you better not put your damn hands on
 6 me, at which point I said, come on, let's go;
 7 I'm going to take you to your parents and let
 8 them deal with you. He said, you're not going
 9 to do anything to me. Those were his exact
 10 words: You're not going to do anything to me,
 11 and you better not put your hands on me.
 12 Q. What happened then?
 13 A. I approached Candy Man, and I attempted to
 14 grab his arm -- his left arm with my right
 15 hand.
 16 Q. You were -- So you were grabbing his left arm
 17 with the arm that was closest to the left arm,
 18 which was your right arm?
 19 A. Yes, sir.
 20 Q. And what were you going to do after you
 21 grabbed him?
 22 A. I was going to take Mr. -- I was going to take
 23 Candy Man to my patrol car and transport him

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1 to his parents.
 2 Q. What happened when you grabbed his arm?
 3 A. He snatched away.
 4 Q. What happened then?
 5 A. And I grabbed his left arm again.
 6 Q. What did he do when you grabbed his arm?
 7 A. He proceeded to swing at me.
 8 Q. Did he hit you?
 9 A. Yes, he did.
 10 Q. Where did he hit you?
 11 A. On my -- On the left side of my face, my chin.
 12 Q. What proceeded from there?
 13 A. I grabbed his right arm with my right arm.
 14 Q. Okay. Let's see. You tried to grab his left
 15 arm with your right arm and he snatched away,
 16 and then you grabbed his arm again. Was that
 17 his left arm with your right arm?
 18 A. Yes.
 19 Q. So at some point, did you release your right
 20 hand from his left arm?
 21 A. Yes.
 22 Q. Is that when he hit you?
 23 A. Yes.

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1 Q. So then you grabbed his right arm with your
 2 right arm?
 3 A. Yes.
 4 Q. What did you do after you grabbed him?
 5 A. I held his right fist, and I twisted his arm
 6 behind his back.
 7 Q. Twisted his right arm behind his back?
 8 A. Yes.
 9 Q. And then --
 10 A. He became very, very combative.
 11 Q. When you say combative, tell me what he did
 12 that you construed as combative.
 13 A. The swing itself was combative, and he started
 14 to try to get away from me, get a loose. So I
 15 held his arm, and I grabbed him around his
 16 shoulder and neck. And he continued to
 17 struggle, kick, wiggle, and I held on to him.
 18 And in an effort to get Candy Man under
 19 control, I applied some pressure.
 20 Q. And you applied the pressure to a pressure
 21 point?
 22 A. I just applied the pressure to --
 23 Q. His neck?

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1 A. To his neck.
 2 Q. So at some point I assume he became more
 3 docile and controllable?
 4 A. Yes, sir.
 5 Q. After sufficient pressure had been applied to
 6 his neck?
 7 A. Not sufficient pressure. But after
 8 instruction, after instruction, after
 9 instruction.
 10 Q. Calmed down?
 11 A. Stop fighting, stop resisting, just sit down;
 12 stop fighting, stop resisting, sit down.
 13 Q. Did you put him in handcuffs at any point?
 14 A. Yes, sir.
 15 Q. At what point did you put him in handcuffs?
 16 A. After I had gotten Candy Man in a full, seated
 17 position on the ground.
 18 Q. So you didn't handcuff him until after he was
 19 on the ground?
 20 A. That's correct.
 21 Q. He wasn't squatting? He was sitting on the
 22 ground, correct?
 23 A. Correct.

11 (Pages 41 to 44)

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1 Q. Did you say anything to him at that point?
 2 A. After the handcuffs were applied?
 3 Q. Right.
 4 A. Yes.
 5 Q. What did you say to him?
 6 A. I instructed him to get up.
 7 Q. Did he get up?
 8 A. Yes, he did.
 9 Q. And so after he got up, let's go to -- Let's
 10 go to this diagram again.
 11 A. Yes.
 12 Q. With respect to this table and this mobile
 13 home that you've marked here, where did this
 14 struggle take place?
 15 A. It took place -- Actually, this mobile home
 16 should be a little bit closer to the road
 17 because they were kind of at the rear corner
 18 of this mobile home in a driveway.
 19 Q. How about indicating the driveway, if you
 20 would.
 21 A. Right here.
 22 Q. Did the driveway just come alongside the
 23 mobile home?

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1 A. Yes, sir, it did.
 2 Q. So basically the table was a little over this
 3 way or the mobile home was a little over this
 4 way?
 5 A. The mobile home was a little bit over this
 6 way.
 7 Q. Toward North Pollard?
 8 A. Yes, sir.
 9 Q. So the confrontation took place primarily in
 10 the driveway?
 11 A. Yes, sir.
 12 Q. Once you got him back on his feet, where did
 13 you take him?
 14 A. I stood there for a moment, and instead of
 15 taking him to his parents, I instructed one of
 16 the juveniles around the table to go get his
 17 parents.
 18 Q. Do you have a sense of how far his parents
 19 lived away from where you had the
 20 confrontation with him?
 21 A. Maybe a hundred, hundred and fifty yards tops.
 22 Q. Which juvenile did you instruct to get the
 23 parents?

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1 A. I just instructed -- just made -- yelled out a
 2 command, and I don't know exactly which one
 3 went and got his parents.
 4 Q. But you didn't move him at that point?
 5 A. No, sir, I didn't.
 6 Q. Did you ever take him over to near your patrol
 7 vehicle?
 8 A. Eventually.
 9 Q. You had kind of issued a general instruction
 10 for somebody to go get his parents?
 11 A. Yes, sir.
 12 Q. And one of the juveniles did run off and get
 13 his parents?
 14 A. Somebody did.
 15 Q. While that person was gone and before the
 16 parents arrived back at the scene, what
 17 happened?
 18 A. Nothing. We just stood there.
 19 Q. When the parents arrived back -- First of all,
 20 how long did it take for the parents to get
 21 there?
 22 A. Maybe two to three minutes. No more than
 23 five.

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1 Q. So it was pretty quick?
 2 A. Yes, sir.
 3 Q. And you were still standing in the same place
 4 when you arrived back there?
 5 A. In or near that same place.
 6 Q. Not to imply your feet were planted in the
 7 ground, but you had not moved any great
 8 distance?
 9 A. No, sir.
 10 Q. Did you have -- What's the first thing that
 11 happened when the parents arrived?
 12 A. Well, Mr. John Arthur, Sr. was the first
 13 person to arrive.
 14 Q. What, if anything, transpired when he arrived?
 15 A. Once he arrived, he asked me what was going
 16 on; what was the problem. And as I was
 17 attempting to explain to him, Ms. Lisa
 18 arrived. She came up from near one -- behind
 19 one of the other trailers that was there.
 20 Q. So tell me what you explained to Mr. Searight.
 21 A. I was attempting to explain to Mr. Searight
 22 what had transpired between myself and his
 23 son, and I was interrupted by Mrs. Searight.

12 (Pages 45 to 48)

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<p>1 And my attention shifted totally for safety, 2 and I instructed Mr. Searight to take care of 3 her before she ends up in jail. 4 Q. What was she doing that might end her up in 5 jail? 6 A. She arrived at the scene cursing and directing 7 her comments to me. 8 Q. What sort of comments was she directing to 9 you? 10 A. I can't remember exactly what she said. 11 Q. Do you remember the thrust of it? What did 12 she want you to do? What was the purpose of 13 her comments as far as you know or as far as 14 you could discern at the time? 15 A. To let her son go. 16 Q. So then you instructed Mr. Searight to take 17 control of Mrs. Searight before you had to 18 take her to jail too? 19 A. Yes, sir. 20 Q. What happened then? 21 A. Mr. Searight immediately rushed to 22 Mrs. Searight, and he instructed her to go 23 over there; I'll take care of this. Those</p>	<p>1 Q. Did she? 2 A. Yes, sir, she did. 3 Q. What did she tell Mr. Searight? 4 A. That they were playing cards, Candy Man shot 5 him a bird, and I came over to talk to him. 6 And he started to cuss me and tried to fight 7 me. 8 Q. And what did Mr. Searight do with this 9 information? 10 A. He said, okay, I'll take care of him when I 11 get home; just take him out of the handcuffs. 12 Q. Was that the first time he had asked you to 13 take him out of the handcuffs? 14 A. No, sir. 15 Q. When was the first time he had asked you to 16 take him out of the handcuffs? 17 A. When he first arrived. 18 Q. And that's when you proceeded to explain to 19 him and then asked Laura Walker to explain to 20 him what had happened? 21 A. After Mrs. Searight interfered. 22 Q. So at that point did you take him out of the 23 handcuffs?</p>
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<p>1 were his exact words. 2 Q. And you were all in favor of that? 3 A. Yes, sir. 4 Q. And I suppose you and Mr. Searight then had a 5 conversation? 6 A. We proceeded. 7 Q. Tell me how you proceeded. 8 A. We proceeded to have a conversation as to why 9 I had handcuffed his child, at which point I 10 instructed Mrs. Laura Walker to explain to 11 Mr. Searight what happened. 12 Q. Why did you do that? 13 A. Because the general perception is that once 14 you grab a child or use any type of restraint 15 with a child, the general conception would be 16 that they are more likely to believe what 17 their child says than an actual police officer 18 or another individual. 19 Q. So you asked Laura Wright -- Laura Walker -- 20 (Brief off-the-record discussion.) 21 Q. You asked Laura Walker to explain to 22 Mr. Searight what had transpired, correct? 23 A. Yes, sir.</p>	<p>1 A. No, I didn't. 2 Q. What did you do then? 3 A. I attempted to explain -- I explained to 4 Mr. Searight that I would take him out of the 5 handcuffs on one condition. 6 Q. That condition ... 7 A. Was that he not try to fight me again. 8 Q. Did you impose any other conditions? 9 A. Not that I can recall. 10 Q. Did you suggest that he apologize or anything 11 else? 12 A. No, sir, I didn't. 13 Q. Did you get Candy Man to agree not to fight 14 you again? 15 A. No, I did not. 16 Q. So at what point did you release him from the 17 handcuffs? 18 A. After his father approached -- came a little 19 bit closer to where we were. At this point we 20 were at the car. 21 Q. Why were you heading toward the car? 22 A. To get away from the crowd. 23 Q. Was the crowd hostile or aggressive or</p>

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1 threatening in any way?
 2 A. No.
 3 Q. You just wanted some privacy to be able to
 4 deal with the situation?
 5 A. Yes, sir.
 6 Q. So you're down by the car, which is marked as
 7 number 2 on Plaintiff's Exhibit Number 2. And
 8 Mr. Searight has already told you he's going
 9 to take care of Candy Man when he got him
 10 home?
 11 A. Yes, sir.
 12 Q. At some point you became satisfied that, in
 13 fact, there was no more threat?
 14 A. Yes, sir.
 15 Q. Is that when you released Candy Man?
 16 A. Yes, sir.
 17 Q. Anything else happen in that transaction from
 18 the time Mr. Searight comes up until the time
 19 you're down at the car releasing Candy Man?
 20 A. Yes, sir, it did.
 21 Q. Tell me what happened.
 22 A. When I attempted to take the handcuffs off of
 23 Candy Man, he had his fist balled up and his

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1 father was talking to him. And he said, I'm
 2 going to kill him; I'm going to kill him.
 3 Mr. Searight then smacked Candy Man on the
 4 head or on the back twice.
 5 Q. Did that cause a change in attitude of Candy
 6 Man?
 7 A. Yes, sir, it did.
 8 Q. And at that point did he unball his fist and
 9 quit telling you he was going to kill you?
 10 A. Yes, sir, he did.
 11 Q. Now, when he says to you -- this
 12 fourteen-year-old kid, when he says to you
 13 that he's going to kill you, did you take that
 14 as a serious threat?
 15 A. Yes, I did.
 16 Q. But at some point you became satisfied that he
 17 wasn't going to kill you, and you released
 18 him?
 19 A. Yes, sir, I did.
 20 Q. Anything else that you haven't told me about
 21 that transaction that you consider important
 22 or substantial in explaining your actions or
 23 anybody else's actions?

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1 A. Not to my knowledge, sir.
 2 Q. And you released Candy Man, and you did what
 3 then?
 4 A. After I released Candy Man, he immediately ran
 5 to Ms. Alecia Crenshaw or Searight maybe 15
 6 yards or so from where we were. And he
 7 continued to say that he was going to get me,
 8 and Ms. Crenshaw had to restrain him.
 9 Q. But he had run away from you toward her,
 10 correct?
 11 A. Yes.
 12 Q. And she was restraining him from doing what as
 13 far as you could tell?
 14 A. She was just physically holding him, and she
 15 had actually moved from one side to the other.
 16 Q. Of the mobile home?
 17 A. Yes, sir. She initially started out over here
 18 near this trailer, and he ran to her right
 19 next to this trailer.
 20 Q. Well, let's mark this one with an "A" in the
 21 middle of it so we know what we're talking
 22 about and the other one "B".
 23 So she's originally standing next to B

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1 mobile home?
 2 A. When she entered the scene, she came from
 3 around this trailer.
 4 Q. From the north side of B trailer?
 5 A. Correct.
 6 Q. Down the side?
 7 A. Correct.
 8 Q. To the area closer to Walker Mason Road?
 9 A. That's correct.
 10 Q. So she's standing somewhere along the south
 11 side of trailer B?
 12 A. Yes, sir.
 13 Q. And how close does she get to the table in
 14 front of mobile home A? You've already told
 15 Mr. Crenshaw to deal with her.
 16 A. Yes, sir.
 17 Q. I mean Mr. Searight. And so he's dealt with
 18 her, and she's pretty much backed away from
 19 the scene, correct?
 20 A. Yes, sir.
 21 Q. So by the time you released Mr. Searight, Jr,
 22 Ms. Crenshaw or Ms. Searight is 15 or 20 yards
 23 away?

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<p>1 A. That's correct. Fifteen to twenty feet.</p> <p>2 Q. Okay. And he runs toward her, and she's</p> <p>3 restraining him. Can you tell from the body</p> <p>4 language, the positioning, which direction he</p> <p>5 wants to go from where she's restraining him</p> <p>6 from going?</p> <p>7 A. Yes, sir.</p> <p>8 Q. Which way did he want to go?</p> <p>9 A. Back towards me and my vehicle and his father.</p> <p>10 Q. Did you get any sense of why if he had run</p> <p>11 away to begin with he wanted to come back?</p> <p>12 A. Well, I guess he felt -- found a safe haven</p> <p>13 with his mother.</p> <p>14 Q. So, anyway, she's restraining him. Whatever</p> <p>15 is happening, she's got him?</p> <p>16 A. Yes, sir.</p> <p>17 Q. And he never comes back to you?</p> <p>18 A. No, sir, he didn't.</p> <p>19 Q. What do you do at that point?</p> <p>20 A. I proceeded to talk with Mr. Searight.</p> <p>21 Q. What did you talk about?</p> <p>22 A. Just that I was going to write a report about</p> <p>23 the incident and that as far as I was</p>	<p>1 Man in your immediate vicinity?</p> <p>2 A. Not that I can recall.</p> <p>3 Q. He was already over with his mother by the</p> <p>4 time Officer Davis arrived?</p> <p>5 A. To my knowledge, he was.</p> <p>6 Q. Because when we talk to Officer Davis, I want</p> <p>7 to be sure I know at what point you think he</p> <p>8 got there.</p> <p>9 A. If you talk to Officer Davis.</p> <p>10 Q. Sure. Where is Officer Davis?</p> <p>11 A. He is, one, no longer with the department and,</p> <p>12 two, he's getting prepared to go to Iraq or</p> <p>13 Afghanistan.</p> <p>14 Q. I will promise you this. I'm not going to</p> <p>15 Iraq to depose him.</p> <p>16 MR. DUKES: Oh, come on.</p> <p>17 Q. So Officer Davis, as far as you know, arrived</p> <p>18 during the conversation with Mr. -- as far as</p> <p>19 you remember, during the conversation with</p> <p>20 Mr. Searight?</p> <p>21 A. Yes, sir.</p> <p>22 Q. What did Officer Davis say, if anything?</p> <p>23 A. He just followed my instructions.</p>
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<p>1 concerned, it was over.</p> <p>2 Q. And did Mr. Searight say anything threatening</p> <p>3 to you or rude or ugly?</p> <p>4 A. No, he didn't.</p> <p>5 Q. And so at that point after you had that</p> <p>6 conversation with Mr. Searight, did you then</p> <p>7 get into your car?</p> <p>8 A. Yes.</p> <p>9 Q. Anything happen before that that we haven't</p> <p>10 talked about?</p> <p>11 A. Yes.</p> <p>12 Q. What was that?</p> <p>13 A. Another officer arrived.</p> <p>14 Q. What officer was that?</p> <p>15 A. Officer Jamie Davis.</p> <p>16 Q. And when did Officer Davis arrive? At what</p> <p>17 point in all of this that we've been talking</p> <p>18 about did Officer Davis arrive?</p> <p>19 A. During the time that it was being explained to</p> <p>20 Mr. Searight what happened with his child.</p> <p>21 Q. And that was after you had released Candy Man?</p> <p>22 A. Yes, sir.</p> <p>23 Q. So Mr. Davis -- Officer Davis never saw Candy</p>	<p>1 Q. What were your instructions to Officer Davis?</p> <p>2 A. Just to keep the crowd back.</p> <p>3 Q. And the crowd at that point -- You've not</p> <p>4 indicated that they were showing any</p> <p>5 inclination to come closer to you; is that</p> <p>6 correct?</p> <p>7 A. No, sir, they weren't.</p> <p>8 Q. You just wanted to make sure it stayed that</p> <p>9 way?</p> <p>10 A. Yes, sir.</p> <p>11 Q. Put a little block, if you will, where Officer</p> <p>12 Davis was parked and, if you will, mark that</p> <p>13 number 3.</p> <p>14 A. (Witness complies.)</p> <p>15 Q. So Officer Davis kind of stayed back near</p> <p>16 North Pollard Street from where you guys were</p> <p>17 or his car was?</p> <p>18 A. His car was.</p> <p>19 Q. And then he walked over to where you were?</p> <p>20 A. He walked over near the area.</p> <p>21 Q. Anything else went on during that period of</p> <p>22 time?</p> <p>23 A. No, sir.</p>

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1 Q. What did you do then?

2 A. I was standing at the rear of my car when
3 Mr. Searight was proceeding to talk to me a
4 little bit, and I was actually writing down
5 some things on my I & O report right there on
6 the scene.

7 Q. This I & O report that we are going to mark as
8 Plaintiff's Exhibit Number 1, did you start
9 filling this particular sheet of paper out on
10 the scene?

11 A. Yes, sir, I did.

12 Q. And I would assume -- let me see if I'm
13 right -- that one of the things you probably
14 would have put down there would have been the
15 street address and the names of some of the
16 witnesses, correct?

17 A. Yes, sir.

18 Q. So that you would have those handy when you
19 got back? I mean, rather than writing them in
20 a notebook or something like that, you just
21 went ahead and wrote them on the I & O?

22 A. I wrote down Mr. Searight's street address.
23 As far as the street address of where the

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1 So you're taking down information. Is
2 there anything happening while you're doing
3 that?

4 A. While I'm writing the I & O report, Ms. Willie
5 Nell Searight approaches from between the
6 trailers and asks why was her 13-year-old
7 nephew placed in handcuffs.

8 Q. And she's asking you that?

9 A. Yes, sir.

10 Q. And what do you tell her?

11 A. I instructed her that it was a police matter
12 and that I spoke with the father in reference
13 to that matter.

14 Q. Did she do anything or say anything else?

15 A. She was just ad libbing as to I don't see why
16 you put a 13-year-old child in handcuffs.

17 Q. She was just offering commentary, right?

18 A. She was just basically mouthing off.

19 Q. Mouthing off, I was actually going to use that
20 word.

21 So she was mouthing off to you, and you
22 basically explained to her it's a police
23 matter and you were already dealing with the

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1 incident occurred, the numerical address,
2 there aren't any numbers to indicate exactly
3 where things are on the street.

4 Q. You've got down here on this I & O report
5 Laura Walker, Travis Searight, Melissa Walker,
6 and those are the only three witnesses you've
7 got listed.

8 Any reason why you didn't put other
9 witnesses who might have been there down?

10 A. I didn't know the name of the juveniles, not
11 the entire names of them. I just know them --
12 I know the young ladies when I see them in the
13 neighborhood.

14 Q. And these were the only adults who were there
15 at the time?

16 A. Yes, sir.

17 Q. Laura, Travis and Melissa?

18 A. Yes, sir.

19 Q. So you put down all of the adults who were
20 present?

21 A. Yes, sir.

22 Q. And then, of course, you've got John and Lisa
23 Searight down here.

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1 father?

2 A. Yes, sir.

3 Q. Did she do or say anything else other than
4 just mouthing off?

5 A. Just continued to mouth off, and I continued
6 to write.

7 Q. When you finished writing -- Did anybody else
8 do anything while you were writing on the
9 I & O report?

10 A. No. The crowd just began to disperse.

11 Q. And at some point I assume you completed your
12 job and got in your car and left?

13 A. Yes, sir.

14 Q. And Officer Davis left at the same time you
15 did?

16 A. Yes, sir.

17 Q. Anything else about that incident at all that
18 you consider to be important that I haven't
19 asked you about that's relevant to any charges
20 or defenses in this case?

21 MR. DUKES: Object to the form.

22 MR. LEWIS: Sure.

23 Q. You can go ahead and answer.

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<p>1 A. After the incident was over and we had left 2 the scene, approximately 20 to 30 minutes 3 later, if I am correct, I received a call from 4 the Lowndes County 911. 5 Q. What did they say? 6 A. They asked for any Fort Deposit unit that's 7 10-8. 8 Q. That means in service? 9 A. That means available for service. And I 10 answered. 11 Q. And what was the substance of that call? 12 A. They asked that I respond to North Pollard 13 Street, 311 or 315 or something thereof, in 14 reference to a child being choked by an 15 officer. 16 Q. Excuse me. They were asking you to respond to 17 the same incident in which you had been 18 involved? 19 A. That's correct. 20 Q. And what did you do? 21 A. I then acknowledged that I would get someone 22 over there to stand by for the ambulance for 23 which they needed someone to show the</p>	<p>1 Q. So after you had handcuffed Candy Man, that's 2 when you called Officer Davis? 3 A. Yes, sir. 4 Q. Anything else that you know of about that day 5 that stands out? 6 A. Yes, sir, I do. 7 Q. What was that? 8 A. I noticed that sometime that night after Candy 9 Man was taken to the hospital there were some 10 comments made inside the hospital in reference 11 to threats against me. 12 Q. Who were those comments made by as far as you 13 know? 14 A. Some of the family members. 15 Q. Do you know which family members? 16 A. No, sir, not exactly. 17 Q. Who reported these comments to you? 18 A. My sister or my mother. They were at the 19 hospital with my grandmother. 20 Q. And when you're saying family members, you're 21 talking about Searight family members? 22 A. Yes, sir. 23 Q. Do you know who -- You don't know who made the</p>
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<p>1 ambulance where they were going. 2 Q. And who as far as you know did that? 3 A. I instructed Officer Davis to respond to that 4 area because the incident involved me, and I 5 didn't want to escalate the matter anymore. 6 Q. So as far as you know, Officer Davis did 7 respond and everything else took place like it 8 normally would on an ambulance run? 9 A. Yes, sir. 10 Q. You don't know of anything unusual beyond 11 that? 12 A. No, sir, I don't. 13 Q. How would Officer Davis have known to show up 14 on Walker Mason Street at the time he did? 15 A. I called him by radio. 16 Q. Him specifically? 17 A. Yes, sir. He was the only other officer on 18 duty. 19 Q. When did you call him by radio? What point? 20 A. After I had gotten Mr. Searight in custody. 21 Q. Did you go to your car to do that or did you 22 do it with a portable radio? 23 A. I did it with my hand-held.</p>	<p>1 comments that were reported to you? You're 2 not sure who did that? 3 A. No, sir. 4 Q. What was the nature of the comments? 5 A. That they were going to do some type of bodily 6 harm to me or that they would like to do some 7 type of bodily harm to me. 8 Q. Would it have been something like, you know, 9 we just ought to kick his butt, or was it 10 like, let's sneak up on him in the middle of 11 the night and rip his arms off? Could you 12 tell me from what you heard? 13 A. My mother called and she asked me if I was 14 okay and that I better look out, and I think 15 that was -- I think it was my mother. It may 16 have been my sister. It was a pretty trying 17 time because my grandmother was terminally 18 ill. 19 Q. Has your grandmother since passed away? 20 A. Yeah. 21 Q. I'm sorry to hear that. 22 Anything else related to this incident 23 that you can remember?</p>

17 (Pages 65 to 68)

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1 A. (Witness nods head negatively.)
 2 MR. DUKES: Why don't we take a
 3 five-minute break. We've been
 4 going over an hour.
 5 (Brief recess.)
 6 Q. (Continuing by Mr. Lewis) Back on the record
 7 after a break.
 8 I think I was asking you whether or not
 9 there was anything else about that day and
 10 that incident that you consider to be relevant
 11 in any way to the claims and defenses in this
 12 case that you have not told me about, and I
 13 think you told me that that was all you could
 14 remember; is that correct?
 15 MR. DUKES: Object to the form.
 16 Q. Or if there is something else, please tell me.
 17 A. I just told you about what I heard from the
 18 hospital.
 19 Q. Right. And anything else?
 20 A. Not that I can remember.
 21 Q. When you called Officer Davis and Officer
 22 Davis arrived on the scene, would that
 23 communication have gone through the E-911

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1 board?
 2 A. No, sir.
 3 Q. This would have been just officer-to-officer
 4 communication?
 5 A. That would have been on our primary channel.
 6 Q. And that is not monitored or regulated in any
 7 way by E-911?
 8 A. No, sir.
 9 Q. So there would be no record, if I understand
 10 you correctly, of the call to Officer Davis or
 11 his call on the scene, correct?
 12 A. No, sir.
 13 Q. Going back and filling in some details about
 14 this, basically looking at your incident and
 15 offense report which we have now copied and
 16 made an exhibit as Plaintiff's Exhibit Number
 17 1 -- I believe the way I have stapled it, the
 18 second page is actually on top and the first
 19 page is on the bottom. But nevertheless it's
 20 a two-page document. Near the top of this
 21 document, you've got disorderly
 22 conduct/misdemeanor. Explain to me what
 23 you're talking about.

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1 A. Disorderly conduct is when -- or my
 2 interpretation is when you have a person who
 3 refuses to comply with a lawful order in the
 4 presence of three or more people or something
 5 to that effect.
 6 Q. Where did you hear that? Where did you learn
 7 that?
 8 A. It should be within the Title 13 of the
 9 Alabama Criminal Code.
 10 Q. My problem is that if there was any -- if
 11 there was disorderly conduct the way you
 12 describe it, that would have happened only
 13 after you arrived on the scene and were
 14 attempting to restrain or otherwise interact
 15 with Mr. Searight, Jr; is that correct?
 16 A. Yes, sir.
 17 Q. Well, what was he doing of a criminal nature,
 18 if anything, prior to the time you arrived on
 19 the scene?
 20 A. Making the obscene gesture.
 21 Q. What crime was that?
 22 A. Flipping the bird.
 23 Q. Right. Is there a crime called flipping the

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1 bird?
 2 A. No. It's making an obscene gesture. I'm not
 3 sure -- That may fall under the disorderly
 4 conduct act or so.
 5 Q. Well, if it doesn't fall under disorderly
 6 conduct, what crime does it constitute, if you
 7 know?
 8 A. To my knowledge, it would be making an obscene
 9 gesture.
 10 Q. Is that a crime?
 11 A. I can't say exactly.
 12 Q. So if you can't say exactly today whether that
 13 was a crime, could you say exactly back on May
 14 5, 2004 whether or not that was a crime, or
 15 did you know at that time?
 16 A. May 15, 2005?
 17 Q. Yeah, whatever date that was. May 15, 2005.
 18 Was it a crime on that date or did you think
 19 it was a crime on that date?
 20 A. Yes, sir.
 21 Q. And, again, the crime would be what,
 22 disorderly conduct?
 23 A. Yes, sir.

<p style="text-align: right;">Page 73</p> <p>1 Q. And you're pretty sure that the birds were 2 directed to you? 3 A. Yes, sir. I interpreted it to be directed 4 at -- 5 Q. Or whoever was driving the police car? 6 A. Yes, sir. 7 Q. Whether it was you or not? 8 A. Yes, sir. 9 Q. You're pretty sure as you're sitting here 10 today that he was flipping the bird or birds, 11 multiple birds, at the police car or at the 12 person driving the police car? 13 A. Yes, sir. 14 Q. Were you ever instructed in any of your law 15 enforcement training that, in fact, flipping a 16 bird at a police officer is not a crime? 17 A. No, I wasn't. 18 Q. Were you ever instructed in any of your law 19 enforcement training that remarking to a 20 police officer, fuck you, is not a crime? 21 A. No, I wasn't. 22 Q. You're not a lawyer? 23 A. No, I'm not.</p>	<p style="text-align: right;">Page 75</p> <p>1 Q. Go ahead. You can answer the question. 2 A. Rephrase that question, please. 3 Q. Let's say that he was wearing a blue shirt and 4 you mistakenly thought that wearing a blue 5 shirt was a crime in Lowndes County, and you 6 were attempting to arrest him for wearing a 7 blue shirt when, in fact, that's not a crime. 8 Is it your understanding that if he 9 resisted your attempts to arrest him for 10 wearing a blue shirt, that would still 11 constitute a wrongful act on his part? 12 MR. DUKES: Object to the form. 13 A. Yes. 14 Q. So, in other words, a person in Alabama is not 15 allowed to resist even an unlawful arrest? 16 A. To my knowledge, they are not. 17 Q. They are not allowed to do so. 18 And you also indicated that he was failing 19 or refusing to obey a lawful order of a police 20 officer, right? 21 A. Yes. 22 Q. Is that a crime? 23 A. No, it's not. It's not a criminal act. It's</p>
<p style="text-align: right;">Page 74</p> <p>1 Q. And you're not familiar with cases like Collin 2 versus California or anything like that? 3 A. Not that particular one. 4 Q. You had indicated that at the time you 5 attempted to restrain Candy Man that he 6 attempted to resist your attempts to restrain 7 him -- 8 A. Yes, sir. 9 Q. -- just to kind of shorthand what you were 10 saying. 11 Was that a fair statement, that he 12 attempted to resist you? 13 A. Yes, sir. 14 Q. Is it your understanding that an attempt to 15 resist an arrest is always a crime? 16 A. Yes. 17 Q. So even if you had no probable cause to make 18 an actual arrest -- If, for example, you found 19 out that flipping a bird at a police officer 20 is simply not a crime, if you found that out, 21 it would still be wrong for him to resist your 22 attempts to restrain him? 23 MR. DUKES: Object to the form.</p>	<p style="text-align: right;">Page 76</p> <p>1 under the motor vehicle code, Title 32, 2 failure to obey. 3 Q. But that's when you're in the process of 4 directing traffic. 5 A. Yes, sir. 6 Q. But in other circumstances -- like, for 7 example, if you said to me, Lewis, I want you 8 to stand on your hand in the corner and I 9 refuse to obey, that wouldn't be a crime, my 10 refusal to obey that? 11 A. No. 12 Q. I'm just trying to get an understanding of 13 your understanding of the state of the law. 14 You said that you attempted to explain to 15 him that it was disrespectful to shoot birds 16 at police officers. Does it give you cause to 17 arrest him that he wasn't paying any attention 18 to you or making those comments to you like 19 fuck you; you ain't my daddy? Was that cause 20 to arrest him? 21 A. I never arrested him. 22 Q. And I don't want to get too technical here, 23 but is it your understanding that any</p>

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1 restraint of a person's liberty under color of
 2 official office is, in fact, an arrest?
 3 A. No.
 4 Q. That's not? What constitutes an arrest?
 5 A. Actual physical control over the individual.
 6 Q. Isn't that what I said, restraint of liberty?
 7 Would that be an arrest if you had put him in
 8 handcuffs?
 9 A. Or if I had instructed him that he was under
 10 arrest.
 11 Q. Until you -- So your position is that until
 12 you tell him he's under arrest, he's not under
 13 arrest?
 14 A. Yes, sir.
 15 Q. Even if you've got him handcuffed sitting on
 16 the ground?
 17 A. Yes, sir.
 18 Q. Mr. Dukes asked Candy Man about his previous
 19 contacts with you. Do you remember those
 20 questions?
 21 A. Yes, sir, I do.
 22 Q. And there was some indication that perhaps he
 23 had not remembered each and every contact. Do

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1 A. One was Benny Gates.
 2 Q. And what did Mr. Gates complain about?
 3 A. Mr. Gates alleged that Candy Man and several
 4 other juveniles were throwing rocks at his
 5 dogs as well as shooting at his dogs on
 6 numerous occasions as they pass by his house.
 7 Q. Shooting with what?
 8 A. BB gun.
 9 Q. Where does Mr. Gates live?
 10 A. He lives on North Pollard Street as well.
 11 Q. Did he ever come down and sign a complaint,
 12 sign a warrant or anything like that?
 13 A. Not with me.
 14 Q. Do you know whether he did with anybody else?
 15 A. No, sir, I don't know.
 16 Q. Do you know how long ago this was?
 17 A. Maybe within the last 18 months or so.
 18 Q. How about -- What else? Any other complaints?
 19 A. Yes. That Candy Man groped a female student
 20 at the school.
 21 Q. Who made that report?
 22 A. The parent of the child.
 23 Q. Do you remember the name?

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1 you have more contacts than he talked about?
 2 I'd hate for you to go over each and every one
 3 he mentioned.
 4 A. Yes, sir, I do.
 5 Q. Go ahead.
 6 A. I've received several complaints about Candy
 7 Man as well as other juveniles throwing rocks
 8 at people or breaking windows out of buildings
 9 and whatnot.
 10 Q. When were these complaints?
 11 A. I can't recall exactly.
 12 Q. Did you ever make an arrest based on those
 13 complaints?
 14 A. No, sir, I didn't.
 15 Q. And what was the reason why you didn't?
 16 A. Some of which I never made contact with Candy
 17 Man himself. And on other occasions I made
 18 contact with his father and advised him as to
 19 what I was called for.
 20 Q. These complainants, did they identify Candy
 21 Man by name or street name?
 22 A. Yes, sir.
 23 Q. Now, who were these complainants?

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1 A. Yes.
 2 Q. Who was that?
 3 A. Stacy Taylor.
 4 Q. Stacy Taylor was the parent?
 5 A. Yes.
 6 Q. And that was at Lowndes County Middle School?
 7 A. Yes, sir.
 8 Q. Do you know whether Stacy Taylor ever filed a
 9 complaint or signed a warrant?
 10 A. She filed a complaint. She never got to sign
 11 a warrant.
 12 Q. Do you know why?
 13 A. She had passed a 14-day period to pursue
 14 charges against a juvenile.
 15 Q. And you've only got -- And you're telling me
 16 something I don't know. You only have 14
 17 days -- If you've made a complaint against a
 18 juvenile, you've only got 14 days to sign a
 19 warrant?
 20 A. Yes, sir. A petition.
 21 Q. Right.
 22 Anybody else?
 23 A. Yes. There was an incident which occurred at

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<p>1 Calico Fort.</p> <p>2 Q. Who was the complainant?</p> <p>3 A. I don't distinctly remember the complainant.</p> <p>4 I just remember the other juvenile with whom</p> <p>5 Candy Man supposedly slapped.</p> <p>6 Q. Oh, Candy Man and a juvenile were involved in</p> <p>7 an argument?</p> <p>8 A. I can't say it was an argument. The complaint</p> <p>9 that came to me was that Candy Man slapped</p> <p>10 this little boy at Calico Fort.</p> <p>11 Q. And Calico Fort is some trade festival?</p> <p>12 A. Yes. It's a large arts and craft ...</p> <p>13 Q. When was that?</p> <p>14 A. April 2004.</p> <p>15 Q. Anything else?</p> <p>16 A. That's it. Several firecracker incidents</p> <p>17 where -- I live in the Fort Deposit Housing</p> <p>18 Authority, and Candy Man as well as other</p> <p>19 juveniles have been over there shooting</p> <p>20 firecrackers. And instead of just picking</p> <p>21 them up and taking them to their parents, I</p> <p>22 just take the firecrackers and ask that they</p> <p>23 don't shoot them anymore.</p>	<p>1 A. I don't exactly remember who the individuals</p> <p>2 were, but on one or two occasions I've heard</p> <p>3 him myself.</p> <p>4 Q. And what have you heard him say?</p> <p>5 A. Fuck you, kiss my ass, and a few other words.</p> <p>6 Go to hell.</p> <p>7 Q. Anything that constitutes a crime?</p> <p>8 A. Just basically moral turpitude for me.</p> <p>9 Q. Just being a thug? Is that what you're</p> <p>10 saying?</p> <p>11 A. No, sir, I wouldn't say a thug.</p> <p>12 Q. Anything else?</p> <p>13 A. Not that I can think of at this time.</p> <p>14 Q. Let's see. Complaints about him throwing</p> <p>15 rocks, breaking windows. Specific</p> <p>16 complaints: Benny Gates. Did Benny Gates</p> <p>17 ever sign a warrant or file a complaint?</p> <p>18 A. I'm not sure. He didn't do it with me.</p> <p>19 Q. Did you ever contact Candy Man about Benny</p> <p>20 Gates' complaints?</p> <p>21 A. No, I didn't.</p> <p>22 Q. So that was not a contact with him?</p> <p>23 A. No, it wasn't.</p>
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<p>1 Q. Is there some prohibition against shooting</p> <p>2 firecrackers in Fort Deposit?</p> <p>3 A. Not in Fort Deposit. Just over in the Housing</p> <p>4 Authority for which we live.</p> <p>5 Q. Who passed that rule?</p> <p>6 A. It's within the -- It's within the lease for</p> <p>7 all tenants, and that we are not to allow</p> <p>8 anyone to shoot firecrackers or any type of</p> <p>9 fireworks or firearms on that property.</p> <p>10 Q. So as far as you know, that's just a provision</p> <p>11 of the lease?</p> <p>12 A. Yes, sir.</p> <p>13 Q. It's not a crime?</p> <p>14 A. No. It's just the rules of that apartment</p> <p>15 complex.</p> <p>16 Q. Anything else other than what he's already</p> <p>17 talked about?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. Tell me about that.</p> <p>20 A. Cursing of other individuals, both adult and</p> <p>21 juvenile, within the city limits of Fort</p> <p>22 Deposit.</p> <p>23 Q. And who made this report?</p>	<p>1 Q. And we already talked about Stacy Taylor, and</p> <p>2 did you have any contact with Candy Man about</p> <p>3 that?</p> <p>4 A. No, I did not.</p> <p>5 Q. No contact.</p> <p>6 Now, the deal about Candy Man slapping a</p> <p>7 little boy at Calico Fort in 2004, how little</p> <p>8 was the little boy? Do you know?</p> <p>9 A. He was about the same height as Candy Man, but</p> <p>10 he was a lot bigger.</p> <p>11 Q. Candy Man was a lot bigger?</p> <p>12 A. No. The little boy that he slapped was a</p> <p>13 little -- fat little boy. He was fat.</p> <p>14 Q. Chubby little person?</p> <p>15 A. Yes.</p> <p>16 Q. And so the little boy who got slapped was</p> <p>17 actually bigger than Candy Man in terms of</p> <p>18 weight?</p> <p>19 A. Yes.</p> <p>20 Q. And about the same height?</p> <p>21 A. Yeah.</p> <p>22 Q. Did you make contact with Candy Man about that</p> <p>23 slapping incident?</p>

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1 A. Yes, I did.
 2 Q. What happened there?
 3 A. I tried to -- I tried to get him and take him
 4 to his mother who was working at Calico Fort
 5 at the time.
 6 Q. And what did he do?
 7 A. He ran.
 8 Q. As far as you know, did anybody ever file a
 9 complaint, warrant, petition, anything on him
 10 for that?
 11 A. No.
 12 Q. In 2004 Candy Man would have been, what,
 13 eleven or twelve?
 14 A. Eleven or twelve.
 15 Q. And cursing other juveniles, both adult and --
 16 cursing other individuals, both adult and
 17 juveniles, you've heard him do that on
 18 occasion?
 19 A. Yes.
 20 Q. Did you ever arrest him for that or sign a
 21 petition or warrant or anything else?
 22 A. No, I didn't.
 23 Q. Did anybody else to the best of your

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1 knowledge?
 2 A. No, they didn't.
 3 Q. To the best of your knowledge, has anybody
 4 ever signed a juvenile petition, pick-up
 5 petition, delinquency petition, CHINS petition
 6 on Candy Man?
 7 A. No, sir, not to my knowledge.
 8 Q. So as far as you know -- I understand that
 9 juvenile records are sealed, but as far as you
 10 know, there's no juvenile record out there on
 11 Candy Man?
 12 A. As far as I know, no, there's not.
 13 Q. So as far as you know, what Candy Man does is
 14 just get in a lot of trouble?
 15 A. Yes, sir.
 16 Q. Juvenile-type trouble?
 17 A. Yes, sir.
 18 Q. No reports of him robbing anything or cutting
 19 anybody or anything like that?
 20 A. No, sir.
 21 Q. Now, based on this incident here involving May
 22 15 of 2005, have you been subjected to any
 23 investigation by the City of Fort Deposit or

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1 the police department of Fort Deposit or the
 2 internal affairs section of the police
 3 department of Fort Deposit or ABI regarding
 4 this?
 5 A. No, not to my knowledge.
 6 Q. As far as you know, did the City of Fort
 7 Deposit ever undertake an investigation of
 8 this incident or your part in it?
 9 A. Not to my knowledge.
 10 MR. LEWIS: Can you give us about
 11 five minutes? I think we're just
 12 about to wrap up here.
 13 (Brief recess.)
 14 Q. (Continuing by Mr. Lewis) One thing I forgot
 15 to mention to you in the beginning when I went
 16 through my litany is you do have the right to
 17 read and sign this deposition. Most people
 18 waive that right. But you're represented so
 19 your lawyer would be giving you all the advice
 20 you need on whether to do it or not. But the
 21 court reporter needs to know whether or not
 22 she needs to prepare a transcript for you to
 23 read, review and sign. What you can do is

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1 just review that for the accuracy of what she
 2 took down. It's not for changing what you
 3 said or refreshing your recollection or
 4 anything like that.
 5 So the question is, do you want to read
 6 and sign your deposition or do you want to
 7 waive that right? And you can ask Mark about
 8 that.
 9 MR. DUKES: We'll read and sign.
 10 MR. LEWIS: That having been said,
 11 that's all I have.
 12 EXAMINATION
 13 BY MR. DUKES:
 14 Q. Officer Campbell, let me just ask you a
 15 question or two to clarify a few things.
 16 When you first approached Candy Man, you
 17 were going to take him by the hand and just
 18 take him up the street to his parents' house;
 19 is that correct?
 20 A. Yes, I was.
 21 Q. You didn't attempt to restrain him or put the
 22 handcuffs on him until after he took a swing
 23 at you and hit you in the face; is that

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<p>1 correct?</p> <p>2 MR. LEWIS: Object to the form.</p> <p>3 A. That's correct.</p> <p>4 Q. Let me just make sure I have this straight. I</p> <p>5 think at one point you said that making an</p> <p>6 obscene gesture such as this, that it could</p> <p>7 cause some trouble. Was it your understanding</p> <p>8 that it fell under the law for disorderly</p> <p>9 conduct?</p> <p>10 A. Yes, sir.</p> <p>11 MR. DUKES: That's all the questions</p> <p>12 I have.</p> <p>13 MR. LEWIS: Let me follow up on that</p> <p>14 first one.</p> <p>15 EXAMINATION</p> <p>16 BY MR. LEWIS:</p> <p>17 Q. Regarding what you were going to do, you said</p> <p>18 and -- I believe I wrote this down exactly as</p> <p>19 you said it -- you attempted to grab his left</p> <p>20 arm with your right arm, correct?</p> <p>21 A. That's correct.</p> <p>22 Q. And he snatched away, right?</p> <p>23 A. That's correct.</p>	<p>1 who was first duly sworn by me to speak the truth,</p> <p>2 the whole truth and nothing but the truth, in the</p> <p>3 matter of:</p> <p>4 J.S., (a minor child by</p> <p>5 and through his father and</p> <p>6 next friend, JOHN SEAWRIGHT),</p> <p>7 Plaintiff,</p> <p>8 Vs.</p> <p>9 OFFICER CURT CAMPBELL, in</p> <p>10 his individual capacity,</p> <p>11 Defendant.</p> <p>12 In The U.S. District Court</p> <p>13 For the Middle District of Alabama</p> <p>14 Northern Division</p> <p>15 02:05-CV-928-WKW</p> <p>16 on Friday, March 3, 2006.</p> <p>17 The foregoing 90 computer printed pages</p> <p>18 contain a true and correct transcript of the</p> <p>19 examination of said witness by counsel for the</p> <p>20 parties set out herein. The reading and signing of</p> <p>21 same is hereby not waived.</p> <p>22 I further certify that I am neither of kin</p> <p>23 nor of counsel to the parties to said cause nor in</p>
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<p>1 Q. And you attempted -- you grabbed his arm</p> <p>2 again?</p> <p>3 A. Yes.</p> <p>4 Q. At that point your contention is that he swung</p> <p>5 at you, correct?</p> <p>6 A. Yes, he swung at me.</p> <p>7 Q. After the second time you grabbed him?</p> <p>8 A. Yes, he swung at me.</p> <p>9 MR. LEWIS: That's it.</p> <p>10 (Deposition concluded at</p> <p>11 approximately 3:00 p.m.)</p> <p>12 *****</p> <p>13 FURTHER DEPONENT SAITH NOT</p> <p>14 *****</p> <p>15</p> <p>16 REPORTER'S CERTIFICATE</p> <p>17 STATE OF ALABAMA:</p> <p>18 MONTGOMERY COUNTY:</p> <p>19 I, Pamela A. Wilbanks, Registered</p> <p>20 Professional Reporter and Commissioner for the State</p> <p>21 of Alabama at Large, do hereby certify that I</p> <p>22 reported the deposition of:</p> <p>23 OFFICER CURT CAMPBELL</p>	<p>1 any manner interested in the results thereof.</p> <p>2 This 9th day of March, 2006.</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>Pamela A. Wilbanks, Registered Professional Reporter and Commissioner for the State of Alabama at Large.</p>

23 (Pages 89 to 92)

Deposition of Officer Curt Campbell

March 3, 2006

I, Officer Curt Campbell, hereby certify that I have read the foregoing transcript of my deposition given on Friday, March 3, 2006, and it is a true and correct transcript of the testimony given by me at the time and place stated with the corrections, if any, and the reasons therefor noted on a separate sheet of paper and attached hereto.

Officer Curt Campbell

SWORN TO AND SUBSCRIBED before me this _____
day of _____, 20____.

NOTARY PUBLIC

3/9/06
Officer Curt Campbell
741 Edgewood Drive
Fort Deposit, AL 36032

Dear Officer Campbell:

Enclosed is a copy of the transcript of your deposition taken on Friday, March 3, 2006. Please read the transcript and make any corrections on the correction sheet provided specifying the page and line number of each correction.

You will find the original signature page attached to the front of the transcript. Even if there are no corrections, please sign the original signature page and have your signature notarized.

Please return the signature page, correction sheet and transcript within thirty days. The list of corrections will be attached to the original deposition and all parties will be notified of any changes.

Thank you for your prompt attention to this matter.

Sincerely,

Pamela A. Wilbanks, RPR
cc: Mr. S. Mark Dukes
Mr. Jay Lewis

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